IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN
&
THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

TUESDAY, THE 3RD APRIL 2007 / 13TH CHAITHRA 1930

WA.No. 886 of 2007()

AGAINST THE JUDGEMENT/ORDER IN RP.18/2007 Dated 21/02/2007
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APPELLANTS: REVIEW PETITIONERS/RESPONDENTS
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1. THE STATE OF KERALA REPRESENTED BY ITS SECRETARY TO GOVERNMENT, GENERAL EDUCATION DEPARTMENT, GOVT. SECRETARIAT, THIRUVANANTHAPURAM.

2. THE DIRECTOR OF PUBLIC INSTRUCTION, THIRUVANANTHAPURAM.

3. THE ASSISTANT EDUCATIONAL OFFICER, EDAPPAL.

BY GOVERNMENT PLEADER SRI.BENNY GERVASIS

RESPONDENTS: RESPONDENTS/PETITIONERS/4TH RESPNDT IN WPC
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1. A.RANJITH, LPSA, A.M.L.P.SCHOOL, THIRUTHIKKUNDU, MALAPPURAM DISTRICT, RESIDING AT ADATT HOUSE, PANTHAVOOR, ALAMCODE P.O., MALAPPURAM.

2. JASEELA P.K., AM.L.P.SCHOOL, THIRUTHIKKUNDU, KALAPPURAM DISTRICT, RESIDING AT PUTHENPURACKAL HOUSE, OTHALLOOR P.O., MALAPPURAM.

3. THE HEADMASTER, A.M.L.P.SCHOOL, THIRUTHIKKUNDU, PERUMPARAMBU PO, MALAPPURAM.

BY ADV.SRI.JAJU BABU

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 03/04/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.R.RAMAN & ANTONY DOMINIC, JJ.
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W.A.NO. 886 OF 2007
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Dated this the 3rd day of April, 2007

J U D G M E N T

P.R.Raman, J.

The writ petition was filed by the respondents herein seeking to quash Ext.P3 proceedings of the Senior Superintendent in full additional charge of Assistant Educational Officer, Edappal dated 30/05/2005, by which the Headmaster of AMLP School was directed to stop claiming the salary of the petitioners with immediate effect and to refund the salary so far paid. It is stated that they were appointed in 2004 contrary to the circular issued by the Director of Public Instruction not to entertain appointments made by Managers ignoring the conditions in GO(P) No.178/02/G.Edn. dated 28.6.2002, which inter alia provides that fresh appointments can be made only in case there are no protected hands. Petitioners are said to be fresh hands and hence their appointment is stated to be not in order. Petitioners appointment as per Exts.P1 and P2 were duly approved by the Educational Authority. So far the said approval is not revoked. Therefore, as on today, they are approved teachers entitled for

salary. The direction to recover the salary and stop payment of their salary as per Ext.P3 is clearly wrong and the finding of the learned Single Judge as observed in para 4 of the judgment is perfectly justified and we do not find any reason to interfere with the same.

2. However, the learned Single Judge has directed the A.E.O himself to reconsider the matter in the light of the affidavit already filed by him. We find that since the appointment is approved by the A.E.O, it is for the higher authorities, if at all, to revoke such appointments, if the law permits, after due notice to the parties. As such, direction to the A.E.O to reconsider the matter in the light of his own affidavit does not appear to be correct. We therefore vacate that portion of the order passed by the learned Single Judge. We make it clear that the quashing of Ext.P3 will not stand in the way of the Educational Authorities taking any action in accordance with law after due notice to the parties.

Writ appeal is disposed of as above.

P.R.RAMAN, JUDGE.

ANTONY DOMINIC, JUDGE.

Rp